

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No.: 16cr265 (LMB)
)
)
NICHOLAS YOUNG,)
)
Defendant.)
)

**DECLARATION OF NICHOLAS D. SMITH IN SUPPORT OF NICHOLAS YOUNG'S
MOTION TO SUPPRESS ITEMS UNCONSTITUTIONALLY SEIZED FROM HIS
RESIDENCE, BACKPACK, PICKUP TRUCK, AND WORKPLACE LOCKER**

I, NICHOLAS D. SMITH, an attorney duly admitted to practice *pro hac vice* before this Court, hereby declare under penalty of perjury that the following is true and correct:

1. I am a partner in the law firm of David B. Smith PLLC, attorneys for defendant Nicholas Young, and a member of the bars of the State of New York, of Virginia, and of Washington, D.C. I respectfully submit this declaration in support of Mr. Young's motion to suppress items seized from his residence, backpack, pickup truck, and workplace locker.

2. During a recent conference call, Assistant United States Attorney Gordon Kromberg informed me, and co-counsel David Smith, that in response to Mr. Young's Fed. R. Crim. P. 12(b)(4)(B) request for notice of the government's intent to use evidence at trial, the government's position is that Mr. Young should assume the government will use all evidence seized from Mr. Young's person at the time of his arrest, his residence, his vehicle, his phones, and his essakobayashi and maliktheamerican email accounts.

3. In a recent email communication, AUSA Kromberg acknowledged that even if Mr. Young's FISA suppression motion is denied, that would not moot this suppression motion to the extent it concerns documents, objects and records that were not seized until the August 2016 searches (as opposed to the prior FISA-based searches).

Executed in New York, New York on February 15, 2017

Respectfully submitted,

/s/ Nicholas D. Smith
Nicholas D. Smith